

REMARKS

Claims 2-7, 14, 16-18, 22-38 are pending in the application. Claims 2-7, 14, 16-18, 22-32 remain unchanged notwithstanding numerous rejections in the final Office Action. Claims 33-38 have been added to provide Applicants with the scope of protection to which they are believed entitled. Claims 22-32 in the claim listing are accompanied with claim identifier “withdrawn” to be compliant with Rule 121 and the Examiner’s decision to withdraw claims 22-32 from consideration. However, Applicants still maintain that claims 22-32 should be examined in this application for the reasons advanced below.

First of all, Applicants would like to remind the Examiner that he should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. *See MPEP*, section 706.07 (emphasis added). Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it. *See MPEP*, section 707.07(f).

Accordingly, if any of the rejections manifested in the Final Office Action, which are respectfully traversed for the reasons advanced below, is to be sustained, the Examiner is requested to specify the reason(s) why Applicants’ arguments are not persuasive and/or why the rejections stand.

The following supposed errors are found in the Examiner’s Final Office Action.

1. The finality of the final Office Action is improper for the reasons advanced in the October 7, 2003 Request for Reconsideration, page 2.

2. The restriction requirement is improper and should be withdrawn or at least rephrased for the reasons advanced in the October 7, 2003 Request for Reconsideration, page 3.

The Examiner's statement in the Advisory Action that new claims 22-32 would create a burden on the Examiner is noted. This statement appears inaccurate because the invention of claims 22-32 and the invention of the other claims belong to the **same classification** group/subgroup and can be covered in the same search. Therefore, there should not be any serious burden on the Examiner. The Examiner is kindly reminded that if "the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." *See MPEP*, section 803 (emphasis added).

Accordingly, Applicants respectfully submit that the restriction requirement, *as formulated by the Examiner*, is improper and should be withdrawn.

3. The 35 U.S.C. 112, *first paragraph* rejection of claims 2-7 is improper for the reasons advanced in the October 7, 2003 Request for Reconsideration, page 4, and should be withdrawn as indicated in the Advisory Action.

4. The repeated 35 U.S.C. 102(e) rejection of claim 14 as being anticipated by *Hirtl* is traversed for the reasons advanced in the Amendment filed June 12, 2003 and the October 7, 2003 Request for Reconsideration, page 5.

In particular, *Hirtl* clearly fails to disclose, teach or suggest the claimed resetting mechanism that connects the barrel and the piston. Spring 23 of *Hirtl* which the Examiner regarded as part of a resetting mechanism is not described in the patent to connect barrel 4 and piston 6. The *Hirtl* barrel and piston are neither disclosed to be connected by any other means. The anticipatory rejection of claim 14 should be withdrawn.

5. The 35 U.S.C. 103(a) rejection of claims 2-7 and 16-18 as being unpatentable over *Hirtl* in view of *Jochum* is traversed for the reasons advanced in the October 7, 2003 Request for Reconsideration, page 6.

In particular, the applied references singly or in combination fail to disclose, teach or suggest all limitations of the rejected claims.

The Examiner appeared to admit that *Hirtl* does not teach or suggest the last two limitations of independent claim 2, i.e., engagement means and displacement means. The Examiner then stated that *Jochum* teaches the missing elements and held it would have been obvious to combine *Jochum* with *Hirtl* to provide for a gripping means for arresting returning the piston.

Applicants respectfully disagree, because *Hirtl* and *Jochum* do not disclose, teach or suggest the claimed **displacement means for displacing the engagement means rearwardly** and comprising an **energy source**. Contrary to the Examiner's position manifested in page 4, lines 6-10 of the July 7, 2003 Office Action, element 10 of *Jochum* is a ball (see Fig. 1, column 5, line 33 of *Jochum*) rather than an energy source, and the assembly ball 10/pad 11 of *Jochum* which the Examiner regarded as the claimed engagement means is not displaced rearwardly by any means. (the Examiner is asked to cite column and line numbers of *Jochum* if he holds otherwise). Thus, *Hirtl* in view of *Jochum*, as applied by the Examiner, fail to render the invention of claim 2 obvious.

Claims 3-7 are patentable at least for the reasons advanced with respect to independent claim 2.

Claims 16-18 are patentable at least for the reasons advanced with respect to independent claim 14. Claims 16-18 are also patentable over the applied references for the reasons advanced in the last Amendment, page 9.

In addition, as to claim 16, the applied references fail to disclose, teach or suggest a spring attached to the barrel and the catching element. The Examiner's catching element appears to be assembly 10/11 of *Jochum*. This assembly is not disclosed or suggested to be attached to any spring.

As to claim 17, the applied references fail to disclose, teach or suggest the claimed **latch**. The Examiner simply forgot to specify where in the applied references this claim feature might be found or suggested. **Clarification is respectfully requested.**

New claims 33-38 depend from claim 2 or 14, and are considered patentable at least for the reasons advanced with respect to claims 2 and 14. Claims 33-38 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art.

As to claim 33, the applied art of record fails to disclose, teach or suggest that said **engagement means are moveable relative to the forward end of said barrel assembly**. *See*, e.g., the relative positions of elements 22 and 8a in FIGs. 1 and 2 of the instant application. In *Jochum*, elements 10, 11 are fixed to barrel 8. *See* Figs. 1-3 of *Jochum*.

As to claim 34, the applied art of record fails to disclose, teach or suggest that said **engagement means are connected to said forward end of said barrel assembly by a spring other than the energy source**. *See*, e.g., element 29 in FIGs. 1 and 2 of the instant application.

As to claim 35, the applied art of record fails to disclose, teach or suggest **braking means different from said engagement means**. *See*, e.g., elements 26 and 22/24 in FIGs. 1 and 2 of the instant application. The Examiner's combined device includes, at best, only braking elements 10/11 of *Jochum*.

As to claim 36, the applied art of record fails to disclose, teach or suggest **braking elements**

which are not part of said resetting mechanism and operate independently of said resetting mechanism. See, e.g., elements 26 and 22/24 in FIGs. 1 and 2 of the instant application. The Examiner's combined device includes, at best, only breaking elements 10/11 of *Jochum*.

As to claim 37, the applied art of record fails to disclose, teach or suggest that **said barrel comprises a front portion being connected to said catching element which is connected to an end of said spring which has an opposite end connected to a rear portion of said barrel.** See, e.g., elements 8a, 22/24, 32, 8b in FIGs. 1 and 2 of the instant application.

As to claim 38, the applied art of record fails to disclose, teach or suggest another spring disposed between and connecting said front portion and said catching element. See, e.g., element 29 in FIGs. 1 and 2 of the instant application.


Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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